Supreme Court, U.S.
FILED

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No. _____

IN THE SUPREME COURT
OF THE UNITED STATES

OCTOBER TERM, 1993

ROBERT DIGIAN, Petitioner

vs.

WILLIAM CLINTON, Respondent

PETITION FOR WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Robert DiGian
In Propria Persona, Sui Juris
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82 pp

QUESTIONS PRESENTED

1. Did William Clinton as actor in capacity of "Presidential Candidate" have authority at law to conduct specific performance to apply for the office of President of the United States of America?

2. Did Petitioner Robert DiGian, "pertaining to standing" under Article X have power delegated to him as "to the people" to prosecute at law and equity to challenge declared Candidate William Clinton when the United States legislative and executive branches had no subject matter jurisdiction over Clinton when he was not yet an agent, officer or employee of the United States Government?

3. Did the demand of specific performance by the U.S.D.C. Eastern District of Pennsylvania jurist comply to the Petitioner's accurate Complaint of Special Extraordinary Emergency Relief filed September 22, 1992, prior to the Political Election Process of November, 1992?

4. Did the "moot mentality" of the U.S. District E.D.P. order of January 11, 1993, render error to the Petitioner's cause of action and in effect violate his substantive right of due process pertaining to redress of grievances for a single sovereign citizen?

5. Did the Third Circuit Court of Appeals order of August 30, 1993, reinforce in concert the error of the

District Court and is it not a collectively reversible error?

6. Did Candidate or alleged President william Clinton ever deny the serious charges leveled against him by the Petitioner?

7. Did the Congressional House Record of August, September, October, 1992, convict and sentence Candidate William Clinton in absentia?

8. Did the verifiable historical facts presented by the same Congressional House Record "as exhibits" infer probable cause to warrant a prima facie case as to "disqualify" a presidential candidate or now seated President by an "in equity" owner of the Government of the United States such as the Petitioner?

States such as the Petitioner Complaint filed on September 22, 1992?

9. Did the Constitution's founding fathers make provision to "disqualify" any and all persons applying for High offices of Honor, Profit and Trust such as the Presidency with direct Moral and Ethical implications related to the Enumerated Components such as "good" behavior and "disorderly" behavior?

10. Did the Constitution's founding fathers make provision for Article III Courts to be charged with the duty to uphold the values that are so mandated in the Constitutional Contract for the United States of America pertaining to moral and ethical specific performances by any and all applicants of High offices such as the Presidency?

PARTIES TO THE PROCEEDINGS

The parties to the proceeding in the United States Court of Appeals for the Third Circuit were as follows:

Appellant: Robert DiGian

Appellee: William Clinton

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No. _____

IN THE SUPREME COURT
OF THE UNITED STATES

NOVEMBER TERM, 1993

ROBERT DIGIAN, Petitioner

vs.

WILLIAM CLINTON, Respondent

PETITION FOR WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

CITATIONS TO OPINIONS

The Judgment Order of the Third Circuit Court of Appeals is included in Appendix A. The memorandum and order of the United States District Court for the Eastern District of Pennsylvania is found at Appendix B.

JURISDICTION

Petitioner seeks review of a Third Circuit Judgment Order dated August 30, 1993. Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article III of the United States Constitution, § 2:

The judicial power shall extend to all cases, in Law and Equity, arising under this Constitution, the Laws of the United States...to controversies...between citizens of different States.

The XIV Amendment, § 3 provides:

No personal...shall hold any office, civil or military, under the United States...who, having previously taken an oath...as an officer of the United States...to support the Constitution of the United States, shall have engaged in insurrection or rebellion against same, or given aid or comfort to the enemies thereof.

The X Amendment:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

STATEMENT OF THE CASE

[Prayer-Petitioner believes therefore he speaks. Receive these words in spirit and truth that it may go well with this court. Let this case sent from the Heavenly Courts with a shout so Publish and Declare that all things hidden be revealed with the eyes of Him to whom we all have to do. Let it be an awesome thing to be placed in the hands of the living God. By faith calling those things that be not as though they were; let these proceedings and this court be translated in spirit by authority to the place absent of time for review before the throne of Grace. Let all jurists who before the foundations of the earth were established and so ordained to partake in this matter, govern their tongues and take notice as

to weigh their words that a good report proceeds from the mouth of this court. Let the error of the 1992 General Elections and President William Clinton's administration be struck and set aside rendering null and void all that he has touched on earth as having no legal existence and let it be seen as reversible error retroactive to the time in space known as the filing of the complaint for Special Extraordinary Emergency Relief so dated September 22, 1992.-Sela]

Petitioner would not have this court ignorant as to his substantive statistics of being: by birth Caucasian, gentile, male inhabitant, sovereign subject citizen, occupying a commonwealth state of Pennsylvania, live party to the posterity of We the People and its

unabridged incorporeal hereditament rights so Published and Declared by the instrument of the United States Constitutional Contract and under same "Contract" ready, willing and able to claim entitlement to oversee his "alter ego" the "United States Government" thereby maintains standing by inheritance to invoke the remedial powers of his "in equity" Federal Courts to redress a favorable decision on a most important specific grievance of magnum subject matter controversy. Further this court should not be denied the petitioners roots grown out of his European ancestry whose blood flows from the household of the Caesars. Yea though the Caesars and their Empires be dead yet do they live through the founding fathers' wisdom for this republic. Same authors of authority in Roman Law to which gave birth to The

Constitution of these United States. Petitioner now crosses his Potomac River as did Julius before him in negotiating the Rubicon River and makes ready to enter this court of "last resort" in a civil manner but with legions of supporters not soldiers to lay siege with "public opinion" greater than all the former legions of Rome and its capacity to conquer all the worthy world and keep it for in excess of half a millennium. This writ has been inscribed on the docket of time and crosses over the thresholds of space.

As ancient Centurions were dispatched by the senate of Rome they remained loyal and did not "evade" Duty, Honor, Country but went forth by authority in authority to engage enemies in foreign dominions and fields of

action. Roman law was fair and substantial in its justice and in matters of traitors, crucifixion was the order of the day. This is indeed another day and grace has entered through the intersection of the cross where mercy rejoices over judgment and "disqualification" remains the remedy of choice under the United States Constitution. Political insolvency is the motive of a "disqualification".

It should be heir apparent to this esteemed court that the Petitioner's case represents both the living and the dead. The dead, who being loyal as unto death are clothed with the stars and stripes at burial. Same dead deserve not to be tread on by men clothed in disloyalty such as exhibited by President Clinton's verifiable historical facts and

behavioral misconduct. The blood of fallen comrades in arms the world over cry out in concert from the ground and demands a just decision in this subject less they be forsaken in torment.

What of all the soldiers in the land of the living who extended their hands of flesh to serve the Republic and did not waiver to the left or right and rebel as in cowardliness profile. Total recall - Vietnam war frame - many had the liberty to go north but many more did the proper thing and went South to Vietnam, served for a season and were honorably discharged from active duty. This issue will never rest until it is put to rest by justice. President Carter the first Southerner since the Civil War did in fact forgive the transgressors who went North instead of South, but even

President Carter a hippochristian never suggested they apply for high offices of Honor, Profit and Trust!

Should not the remaining mothers in the land who lent their sons to country be justified. Did they not spread their wombs in labor bringing forth sons of the republic and were not many evaporated in war. Who will give an account to these mothers and say their sons died for naught. For this is the discontentment voiced on the city streets, across the fruited plains and coast to coast.

Now comes the Petitioner who has in fact survived warfare and is active again; does arrive at the door of this court, but for this purpose to summons up the serpent of the past. Same serpent remains static and continues to make a

home in President Clinton. Then, William Clinton departed from the sea of humanity to declare his candidacy to apply for the position of Honor, Profit and Trust. Knowing full well he was unmitigatedly "unqualified" on all fronts, having shown no personal stake or affection to his home republic. The father of all lies is the serpent; and the serpent spoke through the mouth of Candidate Clinton and did lie to a nation in waiting. Petitioner observes at random times that a lie will circle the Earth before the truth puts on its boots. Listen closely, the boots of truth can be heard in the halls of justice at the United States Supreme Court for those who have ears to hear. Same Clinton's past shall now become his future through this present cause of action. Now culminating as the acceptable time for this court to raise

the banner of justice and make a frontal attack to impeach the credibility of President Clinton's conduct and behavior unbecoming of an officer and a gentleman of these United States in this fair Republic. This court should embrace this matter with both arms and make a path for it in the wilderness. Open your doors wide to redress these grievances between two distinct, palpably diverse and diametrically opposed alternate lifestyles of citizenry.

Petitioner as under His authority therefore in authority moves his right hand upward to command all weapons formed against this writ not to prosper but to be bound on earth and in the heavens. Let this court renew its mind by eating the words that follow which reveal why William Clinton ought to be

"disqualified" and vacate the unlawfully held office as alleged 42nd seated President of the United States of America ushered in under a cloud of deceit and deception, the likes of which no court has ever confronted in 204 years of performance as a United States Supreme Court. For the following grounds of kinds and types of High Crimes and Misdemeanors:

HALT - (Petitioner is without excusable neglect not to alert the minds resident to this court and shine the light on their very own rules of the Supreme Court of the United States so stated succinctly at Rule 5.1 bottom line "to be of good moral and professional character. This key passage is to be construed as a term of endearment for the

Petitioner and a prerequisite for the reader.

a) "Presidential Candidate" and alleged 42nd President Clinton does not meet the standards of morals and demanded ethics required to hold that high office as to Honor, Profit and Trust and to do so for a term of "good behavior" - (enumerated U.S. Constitution) not "disorderly behavior" - (enumerated U.S. Constitution) as alleged in the See Congressional Record, August 12, 1992 at E2539-2540. (e.g., his committing adultery (protracted infidelity) and other immoral acts). Cheat on your wife, a marriage violation as in breach of contract in equity, crime of MORAL TURPITUDE. This specific immoral performance reeks of anticipatory breach

of contract. And he should not be trusted not even with the family cat.

b) President Clinton testified he smoked pot (but without inhaling) possession of illegal controlled substance - MISDEMEANOR. Where is President Reagan's Supreme Court nominee Douglas H. Ginsburg? Did not Douglas H. Ginsburg go the way of Pot but did the proper thing and "disqualified" himself? Does "not inhaling" make one exempt from prosecution of the law?

c) President Clinton - ENGAGED IN INSURRECTION AGAINST THE UNITED STATES in times of war and conflict on foreign soil - See 14th Amendment, Section 3 - HIGH CRIMES - FELONY.

d) President Clinton MADE FRAUDULENT STATEMENTS, wilful misrepresentation of verifiable historical facts as to his specific "qualifications" - Title 18 USC § 1001 - HIGH CRIMES - FELONY.

Gennifer Flowers affair, military Draft issues, Insurrection and rebellion against the United States, aid and comfort with "Known" enemies while at war or in conflict in foreign domains.

e) Petitioner believes President Clinton's draft records and evasions thereof and his organizing and leadership in anti-war demonstrations in London in 1969, and his visit to Moscow in 1970 constituted giving aid and comfort to the "Known" enemies of the United States. "Notice" he committed these acts after he

had taken an oath to uphold the Constitution of the United States when he entered ROTC in Georgetown. See Congressional Record, October 1, 1992 H-10200-10209. September 14, 1992 at H-8720, September 23, 1992 at H-9279.

f) President Clinton did give aid and comfort to "Known Enemies" as a kind or type of male "Jane Fonda". President Clinton is in identity crisis, his behavior is suited for a womanly man or feeman. But his outer shell is the composite of known male counterpart profiles. Article III, § 3 - High Crimes - TREASON.

REASONS FOR GRANTING THE WRIT

There are special and important reasons for granting this Writ. The

Third Circuit Court of Appeals has decided an important question of Constitutional Law which has not been, but should be, settled by this court. This Court has never settled, or even addressed, the monumental question whether a citizen has standing to judicially challenge the candidacy and qualifications of a candidate for the Presidency of the United States. Similarly, the Court has never settled, or even addressed, whether a citizen can judicially challenge the right of a sitting President to continue in office if he does not meet moral and ethical qualifications required by the Constitution.

A. THE CONSTITUTION DISQUALIFIES FOR OFFICE ANY PERSON WHO, HAVING TAKEN THE OATH TO UPHOLD AND DEFEND THE CONSTITUTION OF THE UNITED STATES, GIVES COMFORT AND AID TO THE ENEMY.

The XIV Amendment, § 3 provides:

> No person shall...hold any office, civil or military, under the United States...who, having previously taken an oath...as an officer of the United States...to support the Constitution of the United States, shall have engaged in the insurrection or rebellion against same, or given aid or comfort to the enemies thereof.

This provision bars any person from holding the Presidency if that person had previously taken an oath to defend the constitution and later gave aid or comfort to the enemy and later applies for the office of the Presidency.

William Clinton should be barred from the office of President:

a) He took an oath to defend the United States constitution when he entered the ROTC and became an officer of the United States.

b) He later gave aid and comfort to the enemies of the United States by evading the draft, organizing and leading pro-Hanoi, known enemies demonstrations, and visiting Moscow during times in which North Vietnam and the former USSR were enemies of the United States.

c) He later held the office of Governor of Arkansas in violation of this provision.

d) He sought to obtain the office of President of the United States in violation of this provision.

e) He now holds the office of President of the United States in violation of this provision.

B. THE CONSTITUTION CONTAINS EXPLICITLY ENUMERATED MORAL AND ETHICAL "QUALIFICATIONS" FOR ALL PERSONS APPLYING FOR POSITIONS OF HIGH OFFICE SUCH AS THE PRESIDENCY. THE SPIRIT OF THE CONSTITUTION DOES SUPPORT AND ESTABLISH THE SELF-EVIDENCY OF THE TRUTH OF MORAL AND ETHICAL STANDARDS BEYOND PRESUMPTIONS.

Petitioner desires to disqualify William Clinton from serving as President and to obtain a declaration from this court that he was not qualified to run for President ab initio on the basis he engaged in immoral conduct, e.g., adultery and pot smoking, perjury, fraud, fraud in factum, insurrection, rebellion, sedition and treason, disqualifying an immoral person from being President, the

Federalist Papers do contain references that the Founding Fathers intended that an upright virtuous person hold that high office. For example, Alexander Hamilton wrote, with regard to electing a President, the following:

> All these advantages will be happily combined in the plan devised by the convention; which is, that the people of each State shall choose a number of persons as electors, equal to the number of senators and representatives of such State in the national government who shall assemble within the State and vote for some fit person as president.
>
> This process of election affords a moral certainty that the office of President will seldom fall to the lost of any man who is not in an eminent degree endowed with the requisite qualifications. Talents for low intrigue, and the little arts of popularity, may alone suffice to elevate a man to the first honors in a single State; but it will require other talents and a different kind of merit, to establish him in the esteem and confidence of the whole Union, or of so considerable a portion of it as would be necessary to make him a successful candidate for the

> distinguished office of President of the United States.
>
> It will not be too strong to say that there will be a constant probability of seeing the station filled by characters pre-eminent for ability and virtue.

Federalist Papers, No. 68.

Alexander Hamilton extols politicians and statesmen who have been the most celebrated for the soundness of their principles and for the justness of their views and condemns persons having the public trust who act as to render them unworthy of being any longer trusted. No. 70 Federalist Papers.

C. THIS COURT SHOULD, FOR THE FIRST TIME, RULE THAT A SOVEREIGN SUBJECT CITIZEN INDIVIDUALLY HAS STANDING TO "DISQUALIFY" PRESIDENTIAL CANDIDATES AND EVEN SITTING PRESIDENTS ON MORAL AND ETHICAL GROUNDS IF THE ACTION IS FILED PRIOR TO THE POLITICAL ELECTION PROCESS, AS IS THE CASE BEFORE THIS COURT.

No court in the history of the United States 204 years of traversing time and space, except the courts below, have ever considered whether citizens have standing to judicially challenge the "qualifications" of a candidate for the Presidency or of a sitting President. This Honorable Court should seize this opportunity and wrestle the subject matter to the floor to decide the narrow eye of the tiger issue of standing for the public good and future posterity.

Although not a traditional notion of standing to some may indeed not support

Petitioner's position, but the four winds of change are hovering over the United States Supreme Court. These winds are assembling an inverted tornado with great velocity to siphon up any barriers to service this, a revolutionary new precedent-setting remedy for We The People but very personal for the petitioner's specific relief of injury.

It is time for this Court to sculpture a new theory of standing to support the face of this suit.

a. An American suffers more than "psychological or emotional discomfort" when a person runs for or attains the Presidency who is found vibrantly lacking in his morals and ethicals and therefore any legitimacy to ascend to high office. Such a person, such as President Clinton,

paints and taints under the color of politics and does exceedingly quake civilization in genere, not just individuals. Same such stench afflicted the nostrils of the petitioner from a great distance. The president is by command to set the moral and ethical tone for Americans beyond the range of an alto saxophone. What in fact is occurring if this behavior remains standing and sets a new downward mobility back to the baseness of lawless beastmen mentality. When a candidate or a sitting president fails to do this, it injures the society and makes governing more difficult as a whole: it lowers the moral and ethical tone of the society and government begins to rupture, first with hairline cracks, then wide breaches suddenly appear. Petitioner in the capacity of his life's work as designer and builder cannot deny

what harmonic vibrations introduced by the undulations and vagary behavior of President Clinton, that is to say, they will split the nation in two camps for the ultimate destruction of this republic. The founding fathers were aware of these revelations of human behavior and so provided the remedy of "disqualification" to check the menace of harm. Why else did Richard Nixon "disqualify" himself and resign from the Presidency?

b. A new theory of standing ought to distinguish between public grievances and grievances which benefit the public. Although Petitioner's grievance may be shared by others, that should not disqualify him from standing. If a lawsuit benefits the public, then the court ought to confer standing in the

public interest or all shall suffer the judgment of injury and harm.

c. Americans should have a right to decent Presidential candidates and decent Presidents. The law should provide a remedy for every right violated.

d. Amendment XIV § 3 ought to be construed to create a private right of action for individuals. The Constitution is a "contract" tripartite in nature between the states and We The People and the alter ego of the people is as super state or United States government. When the letter or spirit of the Constitution is broken, then the people ought to be able to seek redress in the federal courts. "The letter apart from the spirit is dead." Knowing full well the

letter of the law kills but the spirit gives life, a veteran, such as Petitioner, is a special class of citizen who is injured when a draft evader runs for or attains the Presidency, employing fraud in factum, perjury and moral turpitude.

f. See the injury? Most imminent inducing breach of contract, unjustifiable interference with contractual relations as Petitioner and his "in equity" U.S. Constitutional "Contract". On contract, as the United States Constitution "Contract" it does in fact so speak by enumerating to specific performance to any person applying for positions of honor, profit and trust. They must do so in a "Term of Good Behavior" when fraud is committed in application by making false statements

the law provides the remedy of "Disqualification". When as here the cognizable fraud is challenged while still in the "Candidacy status" and prior to the Political Election process the Article III courts have original jurisdiction of all civil actions arising under the Constitution "Contract" and the laws of the United States to wit 28 USC 1331. All fraud results in injury. The Petitioner claims injury by misrepresentation of President Clinton's "qualifications" cover-up. Who needs a felon in the White House? Will U.S. Senator Bob Packwood prevail over his last election or will he be "disqualified"?

g. Election campaigns require "minimum standards" of ethics. President Clinton never got close with his vagrant

behavior and alternate career life-style. Apart from this challenge before this Court upon reviewing this judicially correct statement "Evidence at rest tends to stay at rest?", Petitioner stirs up the evidence and so makes the controversy and may it stink all the way up to heaven until relief is granted down on earth to set aside the injury to the Petitioner.

CONCLUSION

Petitioner requests that this Court grant the writ of certiorari to decide whether Americans should have standing to challenge the "qualifications" of candidates for President and sitting Presidents if, from the facts, one can infer that these persons are immoral or unethical or that their conduct violated

Amendment XIV, § 3 and the laws of the land.

The case is one of first impression. Revising the rules to standing to allow access to the federal courts will help restore our republic and rid ourselves of corrupt, immoral leaders who are tearing the fabric of our great nation a thunder and are like clouds without water devoid of substance and worthless for any good thing. Less we forget the Declaration of Independence which so states these kind or types of men are "unfit to be the Ruler of a free people." So let it be known ab initio, the arms of Justice are longer than the legs of traitors.

Respectfully submitted,

Robert DiGian

Robert DiGian
Pro Se

DATED: November 26, 1993

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 93-1123

ROBERT DIGIAN

Appellant

v.

WILLIAM CLINTON

On Appeal from the United States
District Court for the
Eastern District of Pennsylvania
(D.C. Civ. No. 92-05494)
District Judge: Hon. Lowell A. Reed, Jr.

Submitted Pursuant to Third Circuit
LAR 34.1(a)
August 13, 1993

Before: SLOVITER, Chief Judge
COWEN and LEWIS, Circuit Judges

JUDGMENT ORDER

After consideration of all contentions raised by appellant, it is

ADJUDGED and ORDERED that the judgment of the district court entered January 11, 1993 be and is hereby affirmed. Costs taxes against appellant.

By the Court,

Dolores K. Sloviter
Chief Judge

Attest:

P. Douglas Sisk, Clerk

Dated: Aug 30 1993

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

ROBERT DI GIAN, Plaintiff	:	CIVIL ACTION
v.	:	
WILLIAM CLINTON, Defendant	:	NO. 92-5494

MEMORANDUM

Reed, J.

January 7, 1993

At the time plaintiff Robert Di Gian ("Di Gian") filed this pro se declaratory action, defendant William Clinton (hereinafter referred to as "President-elect Clinton") was the Democratic Party's candidate for President of the United States. Plaintiff is suing to disqualify President-elect Clinton's candidacy. Currently before me are President-elect Clinton's motion to dismiss the complaint (Document No. 5), and Di Gian's motion to strike President-

elect Clinton's memorandum in support of his motion to dismiss (Document No. 9).

As everyone is aware, the election for members of the Electoral College was held on November 3, 1992, and Pennsylvania voters chose Presidential Electors pledged to vote for President-elect Clinton. Therefore, plaintiff's challenge to President-elect Clinton's candidacy has become moot. However, even if this decision were handed down before November 3, 1992, plaintiff's claim must fail for lack of jurisdiction.

I. DISCUSSION

A. Plaintiff's Complaint

Di Gian seeks a declaration that President-elect Clinton is disqualified from holding the office of President of the United States. His pleadings in this case are extremely long-winded and barely penetrable. This introduction attempts

to pull from his complaint and memorandum of law Di Gian's legal and factual bases for his claim.

Di Gian would have this Court "resolve and set firm for future Political Campaigns what is required of all candidates not written but presumed in relation to the standards of morals and demanded ethical behavior of [presidential] candidates." Complaint, at paragraph 11. Di Gian claims that such resolution would be "in the best interest and welfare of the public[,]" and that this "Court has a charged duty to uphold the values that are mandated in the Constitution for the United States of America..." Id. at paragraphs 11-12.

The essence of Di Gian's claim apparently is that President-elect Clinton's character is not "free and clear of any and all doubts" because of

some purported misconduct involving "[s]ervice to [c]ountry and using...illegal controlled substances." Complaint, at paragraph 6. In support of his claim, Di Gian states that President-elect Clinton:

> has transported himself outside the sovereign borders of his native United States of America to international domains and fields of actions to commit these illegal acts abroad. These seditious acts against the United States in time of conflict or war clearly as a laser shines concentrates the intent for incitement of public disorder and rebellion against the United States Government, giving aid and comfort to the enemy....Plaintiff has presented facts that have been represented by defendant himself that he used illegal substances[.]

Plaintiff's Memorandum of Law in Opposition to Defendant's Motion to Dismiss, at 2 (hereinafter "Plaintiff's Memorandum of Law").

Di Gian requests "SPECIAL EXTRAORDINARY EMERGENCY RELIEF...to put to rest this challenge to the candidacy of William Clinton as to his morals and/or qualifications." Id. at 3 (emphasis in the original). He asks that this Court "declare that defendant has committed high crimes and misdemeanors of a kind or type to disqualify his candidacy for President" and that he be awarded "his cost for prosecution of this cause" and such other relief as the Court deems proper. Id. at 3-4.

B. Standing

Di Gian bases federal jurisdiction on the existence of a federal question under Articles II and IV of the Constitution, 28 U.S.C. § 1331, and on the Declaratory Judgments Act, 28 U.S.C. §§ 2201-02. His complaint alleges:

> 1. Plaintiff, Robert Di Gian, is an inhabitant of the state of Pennsylvania...
> 2. Defendant, William Clinton, is an individual engaged as a registered Federal Election Commission Candidate in the current 1992 General Election for the Office of President for the United States of America....
> ....
> 7. Defendant did extend his hand to take upon himself money from the Federal Election Commission which Plaintiff has in times past permitted along with others to finance Presidential Elections as is the case in the 1992 General Election.

Complaint, at paragraphs 1, 2 & 7 (some typographical errors in original corrected).

It is fundamental that a federal court lacks jurisdiction to hear any matter that is not a justiciable case or controversy under Article III of the Constitution, and that an action is not

justiciable if the plaintiff does not have standing to sue. Bender v. Williamsport Area School District, 475 U.S. 534, 541-42 (1986). "In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues." Warth v. Seldin, 422 U.S. 490, 498 (1975). To have standing in federal court, the Supreme Court has held that a party must demonstrate that: (1) he personally has suffered a concrete injury in fact which is distinct and palpable rather than merely abstract, conjectural or hypothetical, (2) the injury is causally connected to the challenged conduct, and (3) the injury is likely to be redressed by a favorable decision. Lujan v. Defenders of Wildlife, _____ U.S. _____, 112 S.Ct 2130, 2136 (1992); Simon v. Eastern

Kentucky Welfare Rights Organization, 426 U.S. 26, 38 & 41 (1976). Further, the Supreme Court has stated that:

> [E]ven when the plaintiff has alleged redressable injury sufficient to meet the requirements of Art. III, the Court has refrained from adjudicating "abstract questions of wide public significance" which amount to "generalized grievances," pervasively shared and most appropriately addressed in the representative branches.

Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464, 474-75 (1982) (citations omitted) (citing Warth, 422 U.S. at 499-500).

At first glance, Di Gian's references in his complaint to the financing of presidential candidates through the Federal Election Commission appear to convey the notion that Di Gian

is claiming taxpayer standing. However, in his Memorandum of Law, DI Gian states that he "has never claimed to be acting in the capacity of a taxpayer..." Memorandum of Law, at 7. Instead, Di Gian states that he "is suing as a subject citizen whose very existence and well being in all probability will be drastically affected by the defendant should he continue on and take office as Chief Ministerial Officer of the United Stats of America." Memorandum of Law, at 5 (some typos in original corrected).

It requires little legal analysis to determine that Di Gian cannot meet the requirements for standing. Di Gian argues that he served in the U.S. armed forces in Vietnam as a combat infantry officer, and, therefore, President-elect Clinton's candidacy has caused him "distinct and most palpable [] injuries."

Memorandum of Law, at 3. It appears that Di Gian is claiming some sort of psychological distress that relates in some way to President-elect Clinton's military record. Di Gian's complaint thus is similar to that in Valley Forge which the Supreme Court characterized as follows:

> Although respondents claim that the Constitution has been violated, they claim nothing else. They fail to identify any personal injury suffered by them as a consequence of the alleged constitutional error, other than the psychological consequence presumably produced by observation of conduct with which one disagrees. That is not an injury sufficient to confer standing under Art. III, even though the disagreement is phrased in constitutional terms.

Valley Forge, 454 U.S. at 485-86 (emphasis is the Court's); see also Schlesinger v. Reservists Committee to

Stop the War, 418 U.S. 208 (1974); United States v. Richardson, 418 U.S. 166 (1974).

Di Gian does allege that "[f]ederal [j]urisdiction and [his] rights are concrete" and, "thus this action will by design impregnate the Court of the United States of America and come to swift terms concerning these matters of National scope." Complaint, at paragraph 8. He states further:

> Let it be known that fundamentally this is a case and a controversial controversy that is also highly justiciable in profile and well suited under the Article III of the Constitution of which plaintiff has firm standing and sufficient stake and personal stake to make same plaintiff a proper party to invoke judicial resolution of this dispute and to loose the full exercise of the Court's remedial powers to bring the intended correction by granting of relief in the plaintiff's behalf.

Plaintiff's Memorandum of Law, at 2. In sum, Di Gian's complaint and memorandum of law seek to establish standing by virtue of chaotic oratorical flourish and dramatic, if imprecise, metaphor. However, so far as this Court is aware, the mere length of participial phrases is insufficient to establish standing. And, without standing, this Court is incapable of becoming "impregnated" with jurisdiction.

I conclude that Di Gian's alleged injury is not concrete and particularized, but is a generalized grievance which, whether or not pervasively shared, does not confer standing. Furthermore, even if he had standing, it is hardly conceivable that this Court could afford Di Gian any relief at all. Indeed, beyond the legal qualifications for holding the office of

President of the United States that are set forth in the Constitution itself, the task of deciding whether a candidate is qualified to be President is soundly committed to the political process.

C. **Plaintiff's Motion to Strike**

Di Gian cites no legitimate grounds for his motion to strike President-elect Clinton's Memorandum of Law in Support of his Motion to Dismiss. A review of Di Gian's motion, in fact, makes it clear that it is nothing more than a surreply to President-elect Clinton's motion to dismiss. Therefore, Di Gian's motion to strike will be denied.

III. CONCLUSION

For the reasons discussed above, President-elect Clinton's motion to dismiss will be granted, and Di Gian's motion to strike will be denied.

An appropriate Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

ROBERT DI GIAN, Plaintiff	:	CIVIL ACTION
v.	:	
WILLIAM CLINTON, Defendant	:	NO. 92-5494

ORDER

AND NOW, this 7th day of January, 1993, upon consideration of defendant's motion to dismiss plaintiff's complaint for lack of federal jurisdiction (Document No. 5), and plaintiff's motion to strike defendant's memorandum in support of defendant's motion to dismiss the complaint (Document No.9), and the responses of the parties thereto, having accepted all of the allegations in the complaint as true, having viewed them in the light most favorable to the

plaintiff, and having found that plaintiff has failed to establish standing for purposes of federal jurisdiction, it is hereby **ORDERED** that defendant's motion to dismiss is **GRANTED** and plaintiff's motion to strike is **DENIED.**

Plaintiff's complaint is hereby **DISMISSED WITH PREJUDICE.**

_____

LOWELL A. REED, JR., J.
1-11-93

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 93-1123

ROBERT DIGIAN

Appellant

v.

WILLIAM CLINTON

On Appeal from the United States
District Court for the
Eastern District of Pennsylvania
(D.C. Civ. No. 92-05494)
District Judge: Hon. Lowell A. Reed, Jr.

Submitted Pursuant to Third Circuit
LAR 34.1(a)
August 13, 1993

Before: SLOVITER, Chief Judge
COWEN and LEWIS, Circuit Judges

PETITION FOR REHEARING OF PANEL
AND EN BANC

TO: THE HONORABLE JUSTICES IN THE ABOVE-ENTITLED CAUSE OF ACTION

Pursuant to the JUDGMENT ORDER of this Court's Chief Judge, SLOVITER, and Circuit Judges COWEN and LEWIS submitted on August 30, 1993, and adjudicated by the Clerk, P. Douglas Sisk, and Rule 40 R.A.P., to include Third Circuit IOP Chapter 9.

PETITIONER/APPELLANT, Robert DiGian, moves the court panel to rehear and a rehearing en banc. The PETITIONER invokes that the Courts have overlooked and/or misapprehended the complicity of points of law and in equity what specifically is claimed for relief. The anticipatory breach of contract by

Appellee maintains subject matter injury requiring Appellant's immediate relief from further imminent danger.

This Court to maintain uniformity of its decisions, when no Court has been invoked to respond to the Appellant's specific relief for the last 204 years since John Jay the first Justice, must agree that the proceedings involved questions make for a rare and most exceptional importance indeed. Even more rare the anticipatory relief requires by necessity to vacate the currently unlawfully held and exercise office of the illegally seated and alleged 42nd President of the United States of America. This being the exercise of procedural due process of a null and void retroaction and prior to the 1992 General Election Process. This action results in

the Court's comprehension of the argument relating to the subject matter and rendering a declaratory judgment to disqualify a "Presidential Candidate" by invoking jurisdiction of an Article III Court. Same Courts must have overlooked the exhibits submitted to the courts that reveal the deluge of facts supporting the equity matters and apparent points of law that justify the impetus to have Article III Courts to execute the demanded relief this in line with the existing doctrines of the declaratory judgment acts.

The declared fact is that the United States Constitution is as a principal Contract and Appellant's claim is that in equity he is the owner of the United States Constitutional Contract. Owner also by virtue of being a natural inhabitant in posterity of WE THE PEOPLE

this being Appellant DiGian's incorporeal hereditament rights to have standing to petition his in equity own personal government employing due process for redress of grievances. As owner of "contract" there is presumed personal stake and most concrete. Given Appellant is trustee to the Constitutional "Contract" makes entitlement to maintain the action before the Courts self-evident.

The Appellee who has applied as "presidential candidate" is to do so under "contract" and for a term of good behavior Art III Sec 1 (enumerated). The facts are replete with fraud in the Appellee's behavior by law. This action under "Contract" is known as "disorderly behavior" Art I, Sec 5 (enumerated) and herein begins the anticipatory breach of

contract, the little is a lot, the Appellee demonstrated the breach of contract in his fraudulent behavior to which he has been challenged in a court of competent jurisdiction this to show cause why he should not be disqualified as a "presidential candidate". Appellant has the authority to demand good behavior of a "presidential candidate" in performance with the "principal contract". When "contract" present duty performance is contrary to justice and lives to obstruct justice as is the case and controversy before the courts and this by reason of blatant anticipatory breach of "United States Constitutional Contract" when applying for or campaigning for any office of the United States involving Honor, Profit or Trust and is outcome of words or acts evincing an intention to refuse performance in the

future. This requires swift immediate action to enjoin and/or banish the actor or in this case the "presidential Candidate". TOTAL RECALL - Complaint was filed prior to the political election process on September 22, 1992. Called for in the Complaint was a special extraordinary emergency relief. The five-month delay in the lower court decision has necessitated the removal of a seated president but due process makes provision to do so. The Supreme Court Historical Doctrines speak and address that once the "Political Election Process" is crossed over in effect the die is cast and no remedy exists for an inhabitant such as the Appellant when impeachment is solely for both houses of Congress. But this matter before the Court came at a time prior to the General Election of 1992 a time of filing the

complaint on September 22, 1992, a time when no legislative jurisdiction has authority to address performance or qualification defects of a "Presidential Candidate" specifically where the Candidate is not an Officer, agent or employee of the United States. "Presidential Candidates" reside in a vacuum at that plateau. The Appellant invoked the Article III Courts the only jurisdictional format available to address federal questions when no other jurisdiction is available and this being diversity of citizenship for states of Pennsylvania and Arkansas, male inhabitants who are interested parties to the case. These subject matters of fraud and false statements U.S.C. 18 § 1001, perjury, fraud in the factum, insurrection against the United States, all felonies and to be viewed as High

Crimes and Misdemeanors making a most live controversy and rare action which must require rare judicial review by as many heads as possible. Appellants believe therefore speaks his mind based on 12 months of diligent protracted research and reasoned that the merits of this action has the impetus to spirit the former "Presidential Candidate" now as unlawful occupant of Presidency out of office retroactive to the filing of the Complaint. Any decision other than the relief demand of declaration to disqualify the "Presidential Candidate" for anticipatory breach of contract would violate the Appellant's due process rights the same requiring relief from the personal stake standing in equity ownership of U.S. Constitutional Contract. The Supreme Court's longstanding doctrines on anticipatory

breaches of contract, the U.S. Constitution being the subject contract in question. At the level of Third Circuit, the full court is necessary to secure and maintain uniformity of decisions on Contract performance matters to rule against this matter would be contrary to all contract decisions settled by the Supreme Court to date.

WHEREFORE, Plaintiff/Appellant/ Petitioner Robert DiGian respectfully requests that the court reason together and grant the petition for rehearing by panel and rehearing en banc to re-review the evidence produced and the equity found in the points of law, files, briefs, reply briefs, original Complaint

wording and exhibits any and all records of the Case presented documents.

Dated: September 13, 1993

Robert DiGian

Robert DiGian
In propria persona, sui juris
1-215-789-5264
1-215-789-1458 - FAX
c/o 318 South Fairview Avenue
Upper Darby, Pennsylvania
Non-domestic state

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 93-1123

ROBERT DIGIAN

v.

WILLIAM CLINTON

SUR PETITION FOR REHEARING

Present: SLOVITER, Chief Judge, BECKER, STAPLETON, MANSMANN, GREENBERG, HUTCHINSON, SCIRICA, COWEN, NYGARD, ALITO, ROTH and LEWIS, Circuit Judges

The petition for rehearing filed by Appellant Robert DiGian in the above-entitled case having been submitted to the judges who participated in the decision of this court and to all the

other available judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

By the Court,

Sloviter
Chief Judge

Dated: Sep 29 1993

Received and Filed

9-29-93 ko
P. Douglas Sisk,
Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

JUDGE LOWELL REED
FILED SEPTEMBER 22, 1992
Tuesday-1:00 p.m.

ROBERT DI GIAN, : CIVIL ACTION
Plaintiff : FILE NO. 92-CV-5494

V.

WILLIAM CLINTON, :
Defendant :

COMPLAINT FOR SPECIAL EXTRAORDINARY EMERGENCY RELIEF

JURISDICTION

1. The jurisdiction of this Court is invoked under 28 USC Section 1331, 2201, 2202, and under the Constitution of the United States of America Article II Sections I, II, III and Article IV as here in after more fully appears.

PARTIES

2. Plaintiff, Robert Di Gian, inhabitant of the State of Pennsylvania address as follows C/O 318 South Fairview Avenue, Upper Darby, Pennsylvania, zip exempt DMM 122.32.

3. Defendant, William Clinton, is an individual engaged as a registered Federal Election Commission Candidate in the current 1992 General Election for the Office of President for the United States of America that being the Executive branch of Government which embodies the authority of the Commander in Chief for the Armed Forces also for the United States of America. Defendant, William Clinton is also known as Governor of the State of Arkansas, herein after referred to as Defendant.

4. Defendant represents that he meets the requirements outlined in the

Constitution for the United States of America.

5. Plaintiff avers that meeting the physical requirements of the Law is the partial, now comes the requirements of a renewed mind or psychological behavior to fulfill the duty of the Office of the President of the United States specifically pertaining to vicissitude moral and ethical manifestations demonstrated by the defendant who is to uphold and defend the Law.

6. Plaintiff requires the defendant to show cause (outside the orbit of Political *Verbage by a Court of Law, Federal Jurisdiction in the Eastern District of Pennsylvania specifically on

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* From Vertigo Language: Verbal - Garbage

the issues of Service to Country and using a illegal controlled substances.

7. Defendant did extend his hand to take upon himself money from the Federal Election Commission which Plaintiff has in times past permitted along with others to finance Presidential Elections as is the case in the 1992 General Election.

8. Plaintiff avers that Federal Jurisdiction and Plaintiff's rights are concrete and shall not be recast or moved...thus this action will by design impregnate the Court of the United States of America and come to swift terms concerning these matters of National scope.

9. Plaintiff avers that the Spirit of the Law embraced in the Constitution for the United States of America so speaks that the character of candidates be free and clear of any and all doubts, Witness

a recent candidate for the Supreme Court Justice who was disqualified for smoking a illegal controlled substances while in College.

10. Plaintiff further avers that all candidates Past become their Future through the Present, witness Senator Broc Adam's Past destroying his Future as a Present candidate for re-election due to allegations of drugging eight (8) woman and sexually raping them.

11. Plaintiff requires that these matters are in the best interest and welfare of the public and to set free the defendants political drag factor in a court of record employing the rules of evidence to resolve and set firm for future Political Campaigns what is required of all candidates not written but presumed in relation to the standards

of morals and demanded ethical behavior of said candidates.

12. Plaintiff observes at random times that this Republic is fast becoming RIGHT for all the WRONG people, this Court has a charged duty to uphold the values that are mandated in the Constitution for the United States of America and affords the Plaintiff the Liberty his right to prosecute at Law.

WHEREFORE, the Plaintiff, Robert Di Gian prays that this matter for SPECIAL EXTRAORDINARY EMERGENCY RELIEF be heard in the UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, to put to rest this challenge to the candidacy of William Clinton as to his morals and/or qualifications; and

A. To declare that defendant has committed high crimes and misdemeanors of a kind or type to

disqualify his candidacy for President; and

B. That this Court award Plaintiff his cost for prosecution of this cause; and for such other and further relief as to this Court seems proper and just.

Robert Di Gian

ROBERT DI GIAN,
PLAINTIFF
PRO-SE

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF DELAWARE SS:

ROBERT DI GIAN, being duly sworn according to law, doth depose and say that he is the individual Plaintiff so named in the foregoing Complaint and as such has the authority to make this affidavit: that the facts set forth therein are true and correct to the best of his knowledge, information and belief.

Robert Di Gian
ROBERT DI GIAN

SWORN to and Subscribed before me this 17th day of October A.D. 199_

Notary Public

Notarial Seal
Linda S. Baxter, Notary Public
Lower Merion Twp., Montgomery County
My Commission Expires Dec. 7, 1996